

**BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**HIGHPOINT PARTNERS, LLP**

257 S. Fair Oaks Ave. #210

Pasadena, CA 91105-2050

Certified Public Accountancy Partnership

Certificate No. PAR 6935

Respondents.

Case No. AC-2010-30

OAH No. 2011031309

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER AS TO  
RESPONDENT HIGHPOINT  
PARTNERS, LLP ONLY**

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order as to Respondent HighPoint Partners, LLP only, is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on

JUN 29, 2013

It is so ORDERED

MAY 30, 2013

  
FOR THE CALIFORNIA BOARD OF  
ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 HELENE E. SWANSON  
Deputy Attorney General  
4 State Bar No. 130426  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 620-3005  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**CALIFORNIA BOARD OF ACCOUNTANCY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. AC-2010-30

11 **THOMAS EDWARD HART**  
12 257 S. Fair Oaks Ave. #210  
13 Pasadena, CA 91105-2050

OAH No. 2011031309

14 Certified Public Accountant License No. 56052  
15 and

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER AS TO  
RESPONDENT HIGHPOINT  
PARTNERS, LLP ONLY**

16 **HIGHPOINT PARTNERS, LLP**  
17 257 S. Fair Oaks Ave. #210  
Pasadena, CA 91105-2050

18 Certified Public Accountancy Partnership  
Certificate No. PAR 6935

19 Respondents.  
20

21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
22 entitled proceedings that the following matters are true:

23 **PARTIES**

24 1. Patti Bowers (Complainant) is the Executive Officer of the California Board of  
25 Accountancy. She brought this action solely in her official capacity and is represented in this  
26 matter by Kamala D. Harris, Attorney General of the State of California, by Helene E. Swanson,  
27 Deputy Attorney General.  
28

1           2.     Respondent HighPoint Partners, LLP (Respondent) is represented in this proceeding  
2 by attorney Stephanie Sessions Perkins, Esq., whose address is:

3           **CHAPMAN GLUCKSMAN DEAN ROEB & BARGER**

4           11900 W. Olympic Blvd., Suite 800

5           Los Angeles, CA 90064-0704

6           3.     On or about December 8, 2004, the California Board of Accountancy issued Certified  
7 Public Accountancy Partnership Certificate No. 6935 to Highpoint Partners, LLP. The certificate  
8 was in full force and effect at all times relevant to the charges brought herein, and has been  
9 renewed and is valid. (Highpoint Partners, LLP shall be referred to herein as "Respondent").

10                           JURISDICTION

11           4.     On or about June 4, 2012, First Amended Accusation No. AC-2010-30 (Accusation)  
12 was filed before the California Board of Accountancy (CBA), Department of Consumer Affairs,  
13 and is currently pending against Respondent. The Accusation and all other statutorily required  
14 documents were properly served on Respondent. Respondent timely filed its Notice of Defense  
15 contesting the Accusation.

16           5.     A copy of Accusation No. AC-2010-30 is attached as Exhibit A and incorporated  
17 herein by reference.

18                           ADVISEMENT AND WAIVERS

19           6.     Respondent has carefully read, fully discussed with counsel, and understands the  
20 charges and allegations in Accusation No. AC-2010-30. Respondent has also carefully read, fully  
21 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
22 Order.

23           7.     Respondent is fully aware of its legal rights in this matter, including the right to a  
24 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at  
25 its own expense; the right to confront and cross-examine the witnesses against it; the right to  
26 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel  
27 the attendance of witnesses and the production of documents; the right to reconsideration and  
28

1 court review of an adverse decision; and all other rights accorded by the California  
2 Administrative Procedure Act and other applicable laws.

3 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
4 every right set forth above.

5 CULPABILITY

6 9. Respondent understands and agrees that the charges in Accusation No. 2010-30, if  
7 proven at a hearing, would constitute cause for imposing discipline upon its Certified Public  
8 Accountancy Partnership Certificate No. 6935.

9 10. For the purpose of resolving the Accusation without the expense and uncertainty of  
10 further proceedings, Respondent does not admit the charges contained in the Accusation but  
11 agrees that its Certified Public Accountancy Partnership Certificate No. 6935 is subject to  
12 discipline and Respondent agrees to be bound by the CBA's probationary terms as set forth in the  
13 Disciplinary Order below.

14 CONTINGENCY

15 11. This stipulation shall be subject to approval by the California Board of Accountancy.  
16 Respondent understands and agrees that counsel for Complainant and the staff of the California  
17 Board of Accountancy may communicate directly with the CBA regarding this stipulation and  
18 settlement, without notice to or participation by Respondent or its counsel. By signing the  
19 stipulation, Respondent understands and agrees that it may not withdraw its agreement or seek to  
20 rescind the stipulation prior to the time the CBA considers and acts upon it. If the CBA fails to  
21 adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order  
22 shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action  
23 between the parties, and the CBA shall not be disqualified from further action by having  
24 considered this matter.

25 12. The parties understand and agree that facsimile copies of this Stipulated Settlement  
26 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and  
27 effect as the originals.  
28

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the CBA may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

### DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Partnership License No. 6935 issued to Respondent Highpoint Partners LLP (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

### 1. Obey All Laws

Respondent shall obey all federal, California, other states' and local laws, including those rules relating to the practice of public accountancy in California.

## 2. Cost Reimbursement

Respondent shall reimburse the CBA \$5,628.30 for its investigation and prosecution costs. The payment shall be made within 60 days of the date the CBA's decision is final.

### 3. Submit Written Reports

Respondent shall submit, within 10 days of completion of the quarter, written reports to the CBA on a form obtained from the CBA. The respondent shall submit, under penalty of perjury, such other written reports, declarations, and verification of actions as are required. These declarations shall contain statements relative to respondent's compliance with all the terms and conditions of probation. Respondent shall immediately execute all release of information forms as may be required by the CBA or its representatives.

#### 4. Personal Appearances

Respondent shall, during the period of probation, appear in person at interviews/meetings as

1 directed by the CBA or its designated representatives, provided such notification is accomplished  
2 in a timely manner.

3 **5. Comply With Probation**

4 Respondent shall fully comply with the terms and conditions of the probation imposed by  
5 the CBA and shall cooperate fully with representatives of the California Board of Accountancy in  
6 its monitoring and investigation of the respondent's compliance with probation terms and  
7 conditions.

8 **6. Practice Investigation**

9 Respondent shall be subject to, and shall permit, a practice investigation of the respondent's  
10 professional practice. Such a practice investigation shall be conducted by representatives of the  
11 CBA, provided notification of such review is accomplished in a timely manner.

12 **7. Comply With Citations**

13 Respondent shall comply with all final orders resulting from citations issued by the  
14 California Board of Accountancy.

15 **8. Tolling of Probation for Out-of-State Residence/Practice**

16 In the event respondent should leave California to reside or practice outside this state,  
17 respondent must notify the CBA in writing of the dates of departure and return. Periods of non-  
18 California residency or practice outside the state shall not apply to reduction of the probationary  
19 period, or of any suspension. No obligation imposed herein, including requirements to file  
20 written reports, reimburse the CBA costs, and make restitution to consumers, shall be suspended  
21 or otherwise affected by such periods of out-of-state residency or practice except at the written  
22 direction of the CBA.

23 **9. Violation of Probation**

24 If respondent violates probation in any respect, the CBA, after giving respondent notice and  
25 an opportunity to be heard, may revoke probation and carry out the disciplinary order that was  
26 stayed. If an accusation or a petition to revoke probation is filed against respondent during  
27 probation, the CBA shall have continuing jurisdiction until the matter is final, and the period of  
28 probation shall be extended until the matter is final.

1 The CBA's Executive Officer may issue a citation under California Code of Regulations,  
2 Section 95, to a licensee for a violation of a term or condition contained in a decision placing that  
3 licensee on probation.

4 **10. Completion of Probation**

5 Upon successful completion of probation, respondent's license will be fully restored.

6 **11. Peer Review**

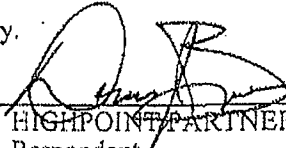
7 During the period of probation, all audit, review, and compilation reports and work papers  
8 shall be subject to peer review by a Board-recognized peer review program provider pursuant to  
9 California Business and Professions Code Section 5076 and California Code of Regulations, Title  
10 16, Division 1, Article 6, at respondent's expense. The specific engagements to be reviewed shall  
11 be at the discretion of the peer reviewer. The peer review shall be completed within a period of  
12 time designated and specified in writing by the CBA or its designee, which time frame shall be  
13 incorporated as a condition of this probation.

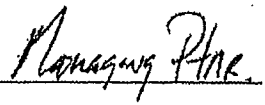
14 Within 45 days of the peer review report being accepted by a Board-recognized peer review  
15 program provider, respondent shall submit to the CBA a copy of the peer review report, including  
16 any materials documenting the prescription of remedial or corrective actions imposed by the  
17 Board-recognized peer review program provider. Respondent shall also submit, if available, any  
18 materials documenting completion of any or all of the prescribed remedial or corrective actions.

19 **ACCEPTANCE**

20 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
21 discussed it with my attorney, Stephanie Sessions Perkins, Esq. I understand the stipulation and  
22 the effect it will have on the Partnership. I enter into this Stipulated Settlement and Disciplinary  
23 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order  
24 of the California Board of Accountancy.

25 DATED: May 8, 2013

  
HIGHPOINT PARTNERS, LLP  
Respondent

  
Managing Partner

1 I have read and fully discussed with Denis Brum, a Partner of Respondent  
2 HighPoint Partners, LLP, the terms and conditions and other matters contained in the above  
3 Stipulated Settlement and Disciplinary Order. I approve its form and content.

4  
5 DATED: 5/8/13

Stephanie Sessions Perkins, Esq.  
6 CHAPMAN GLUCKSMAN, et al.  
7 Attorney for Respondent, HIGHPOINT PARTNERS,  
8 LLP

9  
10 ENDORSEMENT

11 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
12 submitted for consideration by the California Board of Accountancy of the Department of  
13 Consumer Affairs.

14 Dated: April 10, 2013

Respectfully submitted,

15 KAMALA D. HARRIS  
16 Attorney General of California  
17 GREGORY J. SALUTE  
Supervising Deputy Attorney General

18 Helene E. Swanson  
HELENE E. SWANSON  
19 Deputy Attorney General  
Attorneys for Complainant

20 LA2010503139  
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**Exhibit A**

**Accusation No. AC-2010-30**

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 HELENE E. SWANSON  
Deputy Attorney General  
4 State Bar No. 130426  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 620-3005  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*

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9 **DEPARTMENT OF CONSUMER AFFAIRS**  
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10 In the Matter of the Accusation Against:

Case No. AC-2010-30

11 **THOMAS EDWARD HART**  
12 257 S. Fair Oaks Ave. #210  
13 Pasadena, CA 91105-2050

**FIRST AMENDED ACCUSATION**

14 **Certified Public Accountant License No.**  
15 **56052**

16 and

17 **HIGHPOINT PARTNERS, LLP**  
18 257 S. Fair Oaks Ave. #210  
19 Pasadena, CA 91105-2050

20 **Certified Public Accountancy Partnership**  
**Certificate No. PAR 6935**

**Respondents.**

21 Complainant alleges:

22 **PARTIES**

23 1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity as  
24 the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs.

25 2. On or about May 11, 1990, the California Board of Accountancy issued Certified  
26 Public Accountant License Number 56052 to Thomas Edward Hart. The License expired on  
27 September 1, 2008 and, effective March 29, 2009, was renewed through August 31, 2012. The  
28

1 license was in full force and effect at all times relevant to the charges brought herein, with the  
2 exception of the period of time when it was expired from September 1, 2008 to March 28, 2009.

3 3. On or about December 8, 2004, the California Board of Accountancy issued Certified  
4 Public Accountancy Partnership Certificate No. 6935 to Highpoint Partners, LLP. The certificate  
5 was in full force and effect at all times relevant to the charges brought herein, and has been  
6 renewed and is valid for the period of time from January 1, 2011 through December 31, 2012.  
7 (Thomas Edward Hart and Highpoint Partners, LLP shall be referred to herein as "Respondents").

8 **JURISDICTION**

9 4. This Accusation is brought before the California Board of Accountancy (Board),  
10 Department of Consumer Affairs, under the authority of the following laws. All section  
11 references are to the Business and Professions Code unless otherwise indicated.

12 5. Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
13 surrender or cancellation of a license during the period within which the license may be renewed,  
14 restored, reissued or reinstated shall not deprive the Board of jurisdiction to proceed with a  
15 disciplinary action.

16 6. Section 5050 states:

17 "(a) Except as provided in subdivision (b) and (c) of this section, in subdivision (a) of  
18 Section 5054, and in Section 5096.12, no person shall engage in the practice of public  
19 accountancy in this state unless the person is the holder of a valid permit to practice public  
20 accountancy issued by the board or a holder of a practice privilege pursuant to Article 5.1  
21 (commencing with Section 5096)."

22 7. Section 5062 of the Code provides that a licensee shall issue a report which conforms  
23 to professional standards upon completion of a compilation, review or audit of financial  
24 statements.

25 8. Section 5097 provides as follows:

26 "(a) Audit documentation shall be a licensee's records of the procedures applied, the tests  
27 performed, the information obtained; and the pertinent conclusions reached in an audit  
28 engagement. Audit documentation shall include, but is not limited to, programs, analyses,

1 memoranda, letters of confirmation and representation, copies or abstracts of company  
2 documents, and schedules or commentaries prepared or obtained by the licensee.

3 (b) Audit documentation shall contain sufficient documentation to enable a reviewer with  
4 relevant knowledge and experience, having no previous connection with the audit engagement, to  
5 understand the nature, timing, extent, and results of the auditing or other procedures performed;  
6 evidence obtained, and conclusions reached, and to determine the identity of the persons who  
7 performed and reviewed the work.

8 (c) Failure of the audit documentation to document the procedures applied, tests performed,  
9 evidence obtained, and relevant conclusions reached in an engagement shall raise a presumption  
10 that the procedures were not applied, tests were not performed, information was not obtained, and  
11 relevant conclusions were not reached. This presumption shall be a rebuttable presumption  
12 affecting the burden of proof relative to those portions of the audit that are not documented as  
13 required in subdivision (b). The burden may be met by a preponderance of the evidence.

14 (d) Audit documentation shall be maintained by a licensee for the longer of the following:

15 (1) The minimum period of retention provided in subdivision (e).

16 (2) A period sufficient to satisfy professional standards and to comply with applicable laws  
17 and regulations.

18 (e) Audit documentation shall be maintained for a minimum of seven years which shall be  
19 extended during the pendency of any board investigation, disciplinary action, or legal action  
20 involving the licensee or the licensee's firm. The board may adopt regulations to establish a  
21 different retention period for specific categories of audit documentation where the board finds  
22 that the nature of the documentation warrants it.

23 (f) Licensees shall maintain a written documentation retention and destruction policy that  
24 shall set forth the licensee's practices and procedures complying with this article."

25 9. Section 5100 states:

26 "After notice and hearing the board may revoke, suspend, or refuse to renew any permit or  
27 certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing  
28

1 with Section 5080), or may censure the holder of that permit or certificate for unprofessional  
2 conduct that includes, but is not limited to, one or any combination of the following causes:

3 .....  
4 (c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in the same or  
5 different engagements, for the same or different clients, or any combination of engagements or  
6 clients, each resulting in a violation of applicable professional standards that indicate a lack of  
7 competency in the practice of public accountancy or in the performance of the bookkeeping  
8 operations described in Section 5052.

9 .....  
10 (e) Violation of Section 5097.

11 .....  
12 (g) Willful violation of this chapter or any rule or regulation promulgated by the board  
13 under the authority granted under this chapter."

#### 14 **REGULATORY PROVISIONS**

15 10. California Code of Regulations, title 16, Section 58, states:

16 "Licensees engaged in the practice of public accountancy shall comply with all applicable  
17 professional standards, including but not limited to generally accepted accounting principles and  
18 generally accepted auditing standards."

19 11. California Code of Regulations, title 16, Section 68.2, states:

20 "(a) To provide for the identification of audit documentation, audit documentation shall  
21 include an index or guide to the audit documentation which identifies the components of the audit  
22 documentation.

23 (b) In addition to the requirements of Business and Professions Code Section 5097(b), audit  
24 documentation shall provide the date the document or working paper was completed by the  
25 preparer(s) and any reviewer(s), and shall include the identity of the preparer(s) and any  
26 reviewer(s).

27 (c) Audit documentation shall include both the report date and the date of issuance of the  
28 report."

1 12. California Code of Regulations, title 16, Section 87, states:

2 "(a) 80 Hours.

3 As a condition for renewing a license in an active status, a licensee shall complete at least  
4 80 hours of qualifying continuing education as described in Section 88 in the two-year period  
5 immediately preceding license expiration, and meet the reporting requirements described in  
6 Section 89(a). A licensee engaged in the practice of public accountancy as defined in Section  
7 5051 of the Business and Professions Code is required to hold a license in an active status. No  
8 carryover of continuing education is permitted from one license renewal period to another."

9 .....  
10 (d) Accounting and Auditing Continuing Education Requirement.

11 A licensee who engages in planning, directing, performing substantial portions of the work,  
12 or reporting on an audit, review, compilation, or attestation service, shall complete 24 hours of the  
13 80 hours of continuing education required pursuant to subsection (a) in the course subject matter  
14 pertaining to financial statement preparation and/or reporting (whether such statements are  
15 prepared on the basis of generally accepted accounting principles or other comprehensive bases of  
16 accounting), auditing, reviews, compilations, industry accounting, attestation services, or  
17 assurance services. This continuing education shall be completed in the same two-year license  
18 renewal period as the report is issued. If no report is issued because the financial statements are  
19 not intended for use by third parties, the continuing education shall be completed in the same two-  
20 year license renewal period as the financial statements are submitted to the client.

21 (e) A licensee who must complete continuing education pursuant to subsections (c) and/or  
22 (d) of this section shall also complete an additional eight hours of continuing education  
23 specifically related to the detection and/or reporting of fraud in financial statements. This  
24 continuing education shall be part of the 80 hours of continuing education required by subsection  
25 (a), but shall not be part of the continuing education required by subsections (c) or (d).

26 .....  
27 (g) Failure to Comply.  
28

1 A licensee's willful failure to comply with the requirements of this section shall constitute  
2 cause for disciplinary action pursuant to Section 5100(g) of the Accountancy Act."

3 13. California Code of Regulations, title 16, Section 87.7, states:

4 "(a) In order to renew a license in an active status a licensee shall, within the six years  
5 preceding the license expiration date, complete a continuing education course on the provisions of  
6 the Accountancy Act and the Board of Accountancy Regulations, application to current practice,  
7 and other rules of professional conduct. Such course shall be approved by the Board prior to the  
8 licensee receiving continuing education credit for the course and shall be a minimum of 8 hours.  
9 The eight hours shall be counted towards the 80 hours required pursuant to Section 87."

10 **PROFESSIONAL STANDARDS**

11 14. The standards of practice pertinent to this Accusation and the engagements at issue  
12 include, without limitation:

13 A. Generally Accepted Auditing Standards (GAAS) issued by the American Institute of  
14 Certified Public Accountants (AICPA): The ten general, field work, and reporting standards  
15 outlined by GAAS (AU §150), which are interrelated, are discussed in the Statements on  
16 Auditing Standards (SAS). The SAS are codified, by "AU" number, in the AICPA's Codification  
17 of Statements on Auditing Standards. Among the SAS relevant herein, in addition to AU §150  
18 which sets forth the Generally Accepted Auditing Standards are: AU §311.19 and §311.20  
19 (Planning and Supervision – The Audit Plan), AU §316.83 (Consideration of Fraud in a Financial  
20 Statement Audit – Documenting the Auditor's Consideration of Fraud), AU §329.01 (Analytical  
21 Procedures), AU §330.04, §330.06 and §330.35 (The Confirmation Process – Definition of the  
22 Confirmation Process, Relationship of the Confirmation Procedures to the Auditor's Assessment  
23 of Audit Risk, and Confirmation of Accounts Receivable), AU §337.06 and §337.08 (Inquiry of a  
24 Client's Lawyer Concerning Litigation, Claims and Assessments – Audit Procedures and Inquiry  
25 of a Client's Lawyer), and AU §508.08 (Reports on Audited Financial Statements).

26 **COST RECOVERY**

27 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
28 administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
2 enforcement of the case.

3 16. Section 5107, subdivision (a), of the Code states:

4 "The executive officer of the board may request the administrative law judge, as part of the  
5 proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate  
6 found to have committed a violation or violations of this chapter to pay to the board all reasonable  
7 costs of investigation and prosecution of the case, including, but not limited to, attorneys' fees.  
8 The board shall not recover costs incurred at the administrative hearing."

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Gross Negligence)**

11 17. Respondents are subject to disciplinary action under Sections 5100, subdivision (c)  
12 and 5156, in that Respondents committed gross negligence, in the performance of an audit for  
13 S.A. Kitsinian, Inc. ("Kitsinian"), for the years ended December 31, 2006 and 2007. The audits  
14 of Kitsinian contained extreme departures from generally accepted auditing standards and  
15 regulatory requirements. The specific acts and standards of practice that were violated, that  
16 collectively constitute gross negligence, are as follows:

17 a. The audit report for Kitsinian does not have a title that includes the word  
18 "independent" as required by AU 508.08.

19 b. The audit report does not identify the relating Statement of Retained Earnings.

20 c. The audit report does not contain a statement that the financial statements are  
21 the responsibility of the company's management.

22 d. The audit report does not identify the country of origin as the United States of  
23 America (or U.S.) of the generally accepted auditing standards in both the opening and opinion  
24 paragraphs, and does not contain a statement that the audit was conducted in accordance with  
25 those standards.

26 e. Respondents issued an auditor's opinion for Kitsinian for the fiscal years  
27 ending 2006 and 2007, when, the notes to the financial statements failed to meet professional  
28 standards, as follows:



1           1.     Note 4. The note on "Related Party Transactions" does not disclose in  
2 the note nor in the Financial Statements the amount due from related parties as of the date of each  
3 balance sheet presented;

4           2.     Note 8. The note on "Commitments" does not disclose future minimum  
5 lease payments in the aggregate and for each of the five succeeding years. The disclosure  
6 provides only four years of future minimum lease payments without an aggregate (SFAS No. 57,  
7 paragraph 2);

8           3.     Balances of the Long-term Debt are presented in the Balance Sheet, but  
9 there is no disclosure on the Long-term Debt (SFAS No. 47);

10          4.     There is no disclosure for cash paid for interest and income taxes on the  
11 Statement of Cash Flows or in the Notes to the Financial Statements (SFAS No. 95, paragraph  
12 121);

13          5.     Footnote on the financial statements indicates "See Accountant's  
14 Compilation Report". The footnote states that the financial statements were not audited, yet an  
15 audit report was issued. It should be stated as "See Independent Auditor's Report".

16          6.     Note 4. The note on "Related Party Transactions" states "Outstanding  
17 balances relating to these sales are presented as the receivable from related party in the  
18 accompanying balance sheet". Receivable from related party of at least \$630,237 for the year  
19 ended December 31, 2006 (as it is presented in the Statement of Cash Flows) is not presented in  
20 the Balance Sheet.

21          7.     Note 7. The note on Income Taxes for 2006 does not agree to the amount  
22 shown on the financial statement, in that the note provides for income taxes of \$1,209 for 2006,  
23 yet provision for income taxes presented on the Statement of Income and Retained Earnings  
24 shows \$800 for 2006.

25          8.     Note 6. The note on Property and Equipment for 2007 and 2006 does not  
26 agree with the amount shown on the financial statement, in that the note shows \$273,433 for 2007  
27 and \$355,299 for 2006, yet the Balance Sheet presents \$302,892 for 2007 and \$340,218 for 2006.

28

1 f. Respondents' working papers did not contain a written audit plan or any  
2 documentation of analytical procedures being used (in conjunction with AU Section 150);

3 g. There is no documentation that Respondents sent a letter of audit inquiry to the  
4 client's lawyer or obtained a response therefrom, as required by AU Sections 329.01, 337.06 and  
5 337.08.

6 h. There is insufficient documentation showing that procedures were performed to  
7 afford a reasonable basis for an opinion regarding the financial statements. There is insufficient  
8 documentation that any audit evidence was gathered to confirm the accounts receivable balance  
9 of \$2,569,603 when the total assets are \$4,511,457 as of December 31, 2007, as required by AU  
10 Sections 150, 330.06 and 330.35.

11 i. Respondents failed to document his consideration of fraud in the audit, in that  
12 there is no documentation showing that Respondents considered material misstatement(s) caused  
13 by fraud while conducting the audit, as required by AU Sections 316.83.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Repeated Acts of Negligence)**

16 18. Respondents are subject to disciplinary action under Sections 5100, subdivision (c)  
17 in that Respondents committed repeated acts of negligence, in the performance of an audit for  
18 Kitsinian, for the years ended December 31, 2006 and 2007. The circumstances of this violation  
19 are set forth in Paragraph 17(a)-(i), above, which is incorporated by reference as though set forth  
20 fully.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Violation of Professional Standards)**

23 19. Respondents are subject to discipline pursuant to Code section 5100, subdivision (g),  
24 in conjunction with California Code of Regulations, title 16, section 58, in that Respondents  
25 willfully violated applicable professional standards. The circumstances of this violation are set  
26 forth in Paragraph 17(a)-(i), above, which is incorporated by reference as though set forth fully.

27 //

28 //

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Failure to Issue Reports in Accordance with Professional Standards)**

3 20. Respondents are subject to discipline pursuant to Code sections 5100, subdivision (g)  
4 and 5062, in that Respondents issued auditor's reports that failed to conform to professional  
5 standards, as more fully discussed in Paragraphs 17(a)-(i) and 19, above, which are incorporated  
6 by reference as though set forth fully.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(Lack of Sufficient Audit Documentation)**

9 21. Respondents are subject to disciplinary action under Sections 5100, subdivision (e)  
10 and 5097, subdivisions (a)-(f), in that Respondents' audit documentation did not contain  
11 sufficient documentation to enable a reviewer to understand the nature, timing, extent, and results  
12 of the auditing procedures performed, evidence obtained, and conclusions reached, and under  
13 California Board of Accountancy Regulations Section 68.2, in that respondent's audit  
14 documentation did not include an index or guide which identified the components of the audit  
15 documentation. Complainant incorporates by reference the allegations set forth in Paragraph  
16 17(a)-(i) above, as though set forth fully.

17 **SIXTH CAUSE FOR DISCIPLINE**

18 **(Lack of Continuing Professional Education Basic Requirements)**

19 22. Respondent Thomas Hart is subject to discipline pursuant to Code section 5100,  
20 subdivision (g), and California Code of Regulations, title 16, Section 87 (d) and (e), and 87.7, in  
21 that Respondent marked on his August 2006 and 2008 license renewal forms that he did not  
22 complete the required 8-hour Professional Conduct and Ethics (PC&E) continuing education (CE)  
23 course, and on the August 2008 license renewal form, that he did not complete the required 8-  
24 hour fraud CE course. Respondent failed to complete 24 hours of Accounting and Auditing  
25 (A&A) CE, eight hours of fraud CE, and eight hours of PC&E CE prior to his August 31, 2008  
26 license renewal date. Respondent did not complete eight hours of PC&E CE until March 30,  
27 2009, 24 hours of A&A CE until June 5, 2009, and eight hours of fraud CE until May 20, 2009.

1 Therefore, Respondent failed to timely complete the requisite continuing professional education  
2 (CPE) specified by said regulations.

3 **SEVENTH CAUSE FOR DISCIPLINE**

4 **(Practicing Without A Valid, Unexpired Accountancy License)**

5 23. Respondent Thomas Hart is subject to disciplinary action under Sections 5050,  
6 subdivision (a), in that he practiced public accountancy with an expired license from September  
7 1, 2008 through March 28, 2009. Respondent acknowledged his license expired around August  
8 31, 2008, and was not renewed until on or after March 29, 2009. However, the continuing  
9 education deficiencies were not completed, corrected and effective until August 3, 2009.

10 Complainant incorporates by reference the allegations set forth in Paragraph 22 above, as though  
11 set forth fully.

12 **PRAYER**

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
14 and that following the hearing, the California Board of Accountancy issue a decision:

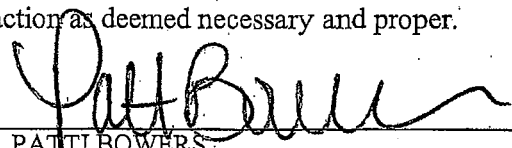
15 1. Revoking, suspending or otherwise imposing discipline upon Certified Public  
16 Accountant License Number 56052, issued to Thomas Edward Hart;

17 2. Revoking, suspending or otherwise imposing discipline upon Certified Public  
18 Accountancy Partnership Certificate No. 6935 issued to Highpoint Partners, LLP;

19 3. Ordering Thomas Edward Hart and Highpoint Partners, LLP, jointly and severally, to  
20 pay the California Board of Accountancy the reasonable costs of the investigation and  
21 enforcement of this case, pursuant to Business and Professions Code sections 125.3 and 5107;  
22 and

23 4. Taking such other and further action as deemed necessary and proper.

24 DATED: 6/4/2012

  
PATTI BOWERS  
Executive Officer  
California Board of Accountancy  
Department of Consumer Affairs  
State of California  
Complainant

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